

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4991 of 1998

with

CIVIL APPLICATION NO. 10566 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

SANDHYABEN ARVINDBHAI SINDE WD/O DECD.ARVINDBHAI MADHAVRAO

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MR MTM HAKIM for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE K.M.MEHTA

Date of decision: 06/09/2000

ORAL JUDGEMENT (per J.N. Bhatt, J)

The Motor Accident Claims Tribunal (Auxiliary), Vadodara has awarded an amount of Rs. 5,26,264/- with interest at the rate of 12% per annum from the date of application till payment by way of compensation to the respondent Nos. 1 to 3 original claimants against the appellant Gujarat State Road Transport Corporation and respondent No. 4 original opponent No. 1 on account of

untimely, and premature demise of young one aged 30 years in a road accident which occurred on 28.2.1993 at about 4.00 p.m. when the deceased who was driving the scooter was thrown off the scooter on account of dashing by State Transport bus GQE-8722 from behind and sustained fatal injuries is questioned by the original opponent No. 2, Gujarat State Road Transport Corporation by filing this appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the M.V. Act').

2. The factum of death on account of road accident is not disputed. On 28.2.1993 the deceased Arvindbhai was driving the scooter when it reached near Padmala Chowkdi on Vadodara-Vasad High way, at that time, an S.T. bus driven by respondent No. 4 original opponent No. 1 came from behind with excessive speed and dashed against the scooter. As a result of which, the scooterist and the pillion driver were thrown off the scooter on the road. The deceased Arvindbhai M. Sinde sustained serious injuries and succumbed to the injuries. He was aged 30 years at the time of the accident. The finding of the Tribunal that the deceased died due to rash and negligent driving on the part of the S.T. Bus driver is fully supportable and the Tribunal has rightly come to the conclusion. Therefore, we find no justification to interfere with the same.

3. The Tribunal has awarded an amount of Rs. 5,26,264/- by way of compensation to the widow and parents of the deceased. After having considered documentary and oral evidence, copies of which were produced before this court at the time of hearing by the learned advocate Ms. Bhatt for the appellant, we find that the amount of compensation for the tortious act of respondent No. 4 is just and reasonable. The deceased was working in the Telephone Department at the relevant time and he was working since last 8 years. He was earning Rs. 1,670/- per month at the relevant time. He was also getting other benefits like bonus, P.F. contribution etc. Considering the prospective earnings of the deceased the Tribunal has taken monthly income at a figure of Rs. 2,516/(yearly income at Rs. 30,192/-) and adopted a multiplier of 17. The Tribunal has, therefore, assessed the annual utility of the deceased to the family considering the prospective earnings and the post of the deceased who was a driver in the Telecom Department. Therefore, the Tribunal has awarded a sum of Rs. 5,13,264/- as prospective loss of income. The Tribunal has also awarded remaining amount out of Rs. 5,26,264/towards conventional, loss of expectation of life and expenses incurred after death.

The appellant is directed to deposit the full amount with interest and cost as per the impugned judgement and award subject to the payment or deposit already made before the Tribunal in course of the proceedings and after the awarded is passed.

In the result, the appeal is dismissed.

In view of the order passed in the main matter, no orders are passed on the Civil Application.

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